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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,238	03/26/2004	Hiroshi Kobayashi	5095-4086	2676
27123	7590	02/28/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			MCCREARY, LEONARD	
			ART UNIT	PAPER NUMBER
			3616	
DATE MAILED: 02/28/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/810,238	KOBAYASHI ET AL.	
	Examiner	Art Unit	
	Leonard J. McCreary, Jr.	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-12 and 14-24 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/26/04, 9/27/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: There is a typo in the specification (page 8, line 14) where applicant refers to "the longitudinal center line of the weigh," when "weight" is appropriate. Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, and 7-11 stand rejected under 35 U.S.C. 102(b) as being anticipated by JP 20011151487 to Atsuhiro. Atsuhiro discloses a weight mounting structure in a counter balance type forklift comprising the following features:

- a structure of mounting a weight in a forklift truck which has a frame 18 and a weight 30 where the weight is coupled to the frame by a bolt 26;
- a first hole formed through the frame 18 for inserting the bolt 26;
- a second hole formed through the weight 30 for inserting the bolt such that the first hole and the second hole correspond to each other;
- a first fitting part 24 formed on the frame;
- a second fitting part 38 formed on the weight in such a manner that the first fitting part and the second fitting part fit to each other and the first

- hole and second hole are aligned when the frame and weight are joined together (claim 1)
- the first fitting part 24 comprises a horizontal top portion, a first contacting portion that continues from a rear end of the top portion and that extends downward, and a second contacting portion that continues from a lower end of the first contacting portion and that extends horizontally forward (shown in Fig. 2);
 - the second fitting part 38 comprises a first bearing surface which is brought into contact engagement with the three portions, a second bearing surface which is brought into contact with the first contacting portion, and a third bearing surface which is brought into contact engagement with the second contacting portion (shown in Fig. 2) (claim 2)
 - the top portion, the first contacting portion, and the second contacting portion have substantially the same dimension as measured in the direction of a width of the forklift (Figs. 1, 2) (claim 4)
 - the first fitting part 24 has substantially a J-shape (claim 7)
 - the first fitting part 24 is fittingly received in the second fitting part 38 (claim 8)
 - the weight has an engaging part 38 facing the frame 18 (claim 9)
 - the second fitting parts are symmetrical relative to a longitudinal centerline of the weight (Fig. 1) (claim 11)

Atsuhiko does not teach the use of nuts, that the first hole is formed through the [vertical] first contacting portion and the second hole is formed through the [vertical] second bearing surface, nor that the number of first and second holes and the number of first and second fitting parts are each two.

Re claim 1, although the use of nuts is conventional in the art, Atsuhiko does not specifically show the use of nuts in Figs. 1-4. However, Atsuhiko does teach the use of nuts in Fig. 6. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize nuts in view of the teachings of Atsuhiko so as to provide a secure connection and as such use is old and well known.

Re claim 3, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the counterbalance weight hole of Atsuhiko to form the bolt 26 hole through the vertical contacting and bearing surfaces so as to facilitate assembly without concern for an obstruction resulting from the configuration of the counterbalance weight.

Re claim 10, it would have been obvious to one of ordinary skill in the art at the time of invention to duplicate the first hole and first fitting parts so as to strengthen the connection between the forklift truck and the counterweight.

Claims 12 and 14-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 20011151487 to Atsuhiko in view of U.S. 3,135,404 to Pilch. The disclosure of Atsuhiko is discussed above. Atsuhiko does not teach methods for mounting a weight in a forklift truck comprising moving the frame to the weight in such a

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manner that the first fitting part and the second fitting part fit together, nor that the bolt through the first hole and the second hole is inserted through the weight side.

Re claim 12, Pilch teaches a tractor mounted counterweight 18 and method of mounting the same comprising the operator moving the frame to the counterweight (column 2, lines 21-25.) It would have been obvious to one of ordinary skill in the art at the time of invention to modify the mounting method of the counterbalance weight of Atsuhiro to include the mounting method of Pilch to back the forklift truck into contact with the weight so as to facilitate mounting of a stationary weight without requiring specialized equipment to move the heavy weight. Further, it would have been obvious to one of ordinary skill in the art to modify the counterbalance weight of Atsuhiro to insert the bolt through the first and second hole from the weight side so as to facilitate self-alignment of the weight to the frame prior to securing the weight.

Re claim 14, Atsuhiro teaches the weight has an engaging part 38 facing the frame 18.

Re claim 15, it would have been obvious to one of ordinary skill in the art at the time of invention to duplicate the first hole and first fitting parts so as to strengthen the connection between the forklift truck and the counterweight.

Re claim 16, Atsuhiro teaches the second fitting parts are symmetrical relative to a longitudinal centerline of the weight (Fig. 1.)

Claims 17-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 20011151487 to Atsuhiro in view of U.S. 3,853,231 to Luttrell. The disclosure of

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Atushiro is discussed above. Atsuhiro does not teach methods for mounting a weight in a forklift truck comprising moving the weight to the frame or the frame and the weight to each other in such a manner that the first fitting part and the second fitting part fit together, nor that the bolt through the first hole and the second hole is inserted through the weight side. Luttrell teaches a vehicle counterweight apparatus comprising a method for installing a counterweight onto a vehicle wherein the weight 35 is moved to the frame 18 using any suitable mechanical lifting device (column 3, lines 7-10.) It would have been obvious to one of ordinary skill in the art at the time of invention to modify the weight mounting structure of Atsuhiro in view of the teachings of Luttrell so as to facilitate mounting of the weight on a stationary forklift truck.

Re claim 21, it is the examiner's position that moving the frame to the weight and the frame and the weight to each other are the same, since both movements are relative, accomplish the same goal, and are obvious steps required to complete the assembly process. It would have been obvious to one of ordinary skill in the art at the time of invention to move the forklift truck into a garage, retrieve a weight from storage and move the weight to the forklift truck using a suitable mechanical device such as a dolly or gantry hoist, in order to mount the weight on the forklift truck.

Re claims 18 and 22, Atsuhiro teaches the weight has an engaging part 38 facing the frame 18.

Re claims 15 and 23, it would have been obvious to one of ordinary skill in the art at the time of invention to duplicate the first hole and first fitting parts so as to strengthen the connection between the forklift truck and the counterweight.

Re claims 16 and 24, Atsuhiro teaches the second fitting parts are symmetrical relative to a longitudinal centerline of the weight (Fig. 1.)

Allowable Subject Matter

Claims 5, 6, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. 6,471,245 to Schott discloses a ballast weight arrangement wherein the vehicle frame is raised to the weight.

U.S. 3,730,545 to Allori discloses tractor weights wherein the weights are lowered to the vehicle frame.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard J. McCreary, Jr. whose telephone number is 571-272-8766. The examiner can normally be reached on 0700-1700 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leonard J. McCreary, Jr.
Examiner
Art Unit 3616



ERIC CULBRETH
PRIMARY EXAMINER